

**ORDINANCE NO. 21-06**

**AN ORDINANCE OF THE TOWN OF FORT MYERS BEACH, FLORIDA AMENDING ARTICLE VI OF CHAPTER 14 OF THE CODE OF ORDINANCES OF THE TOWN OF FORT MYERS BEACH ENTITLED "PROHIBITION OF PLASTIC STRAWS", TO PROHIBIT THE DISTRIBUTION OF NON - MARINE BIODEGRADABLE STRAWS; PROVIDING FOR CODIFICATION, SEVERABILITY, SCRIVENER ERRORS, CONFLICTS OF LAW AND AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, the Town finds that non-biodegradable straws, when irresponsibly discarded, pose an environmental hazard to the health, safety and welfare of the residents and visitors of Fort Myers Beach as well as negatively impacting water quality and the surrounding marine life and natural environment; and,

**WHEREAS**, straws made of paper, plant, vegetable, and other natural products are available and are a more environmentally friendly alternative to non-biodegradable straws; and

**WHEREAS**, the Town recognizes that the Federal Trade Commission "Green Guides" (Title 16, CFR 260) establishes a standard for degradable claims for items entering the solid waste stream that such items must completely decompose within one year after customary disposal; and

**WHEREAS**, the Town desires to amend and clarify the current prohibition on the distribution of plastic straws within its jurisdiction to mean the prohibition on the distribution of non-marine biodegradable straws.

**NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH, FLORIDA:<sup>1</sup>**

**Section 1.** The above recitals are true and correct, and incorporated herein by this reference and are hereby adopted as the legislative and administrative findings of the Town Council.

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<sup>1/</sup> Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as strikethrough.

Section 2. Article VI of Chapter 14 of the Code of Ordinances of the Town of Fort Myers Beach entitled “Prohibition of Plastic Straws” is hereby amended to read as follows:

## CHAPTER 14 – ENVIRONMENT

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### **Article VI – ~~Prohibition of Plastic~~ Distribution of Marine Biodegradable Straws**

Sec. 14-151. - Name.

This article shall be known as the “~~prohibition of plastic~~ distribution of marine biodegradable straws” ordinance. ~~The preamble and findings of fact above are incorporated herein.~~

Sec. 14-152. - Definitions.

- (a) “*Person*” means any person, business, corporation, public nonprofit entity, agency or institution, partnership or other organization or group, however organized.
- (b) “*Natural products*” means an item containing nothing artificial or synthetic in its compounds while it remains a whole item and throughout its decomposition process.
- (c) “*Straw*” means a tube for transferring a beverage from its container to the mouth of the drinker by suction.
- (d) “*Distribution*” or “*to distribute*” means the vending, sale, giving, deployment or delivering for any purpose of a straw, other than as defined herein, whether or not incident to the sale, vending or provision of any kind of beverage in a container. “Distribution” does not include provision of a straw with a beverage on private property used as a residence, or by the School Board of Lee County, or by beverages prepared and packaged outside the town, provided such beverage is not altered, packaged or repackaged within the town.
- (e) “Marine Biodegradable” means the product and the product packaging will completely break down.

degrade, and return to nature decomposing into elements found in nature the marine environment within 1 year after customary disposal.

Sec. 14-153. - Distribution of ~~plastic~~ marine biodegradable straws ~~prohibited.~~

~~Beginning 90 days after the date of adoption of the ordinance codified herein, No~~ person shall distribute ~~plastic~~ straws within the Town unless the straw and packaging are marine biodegradable.

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Section 3. The Town Council intends that the provisions of this ordinance be made a part of the Fort Myers Beach Code of Ordinances, and that sections herein may be renumbered or re-lettered and the words or phrases herein may be changed to accomplish codification; regardless, typographical errors that do not affect intent may be corrected with notice to and authorization of the Town Manager without further process.

Section 4. Whenever the requirements or provisions of this Ordinance conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive shall apply.

Section 5. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason, declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared.

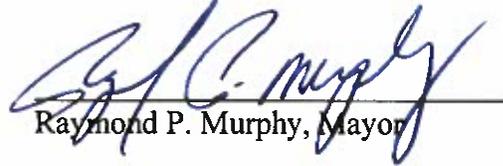
Section 6. This Ordinance shall become effective upon adoption by the Town Council.

The forgoing Ordinance was adopted by the Town Council upon a motion by Council Member Veach and seconded by Vice Mayor Hosafros, and upon being put on a roll call vote, the results was as follows:

Raymond P. Murphy, Mayor	Aye
Rexann Hosafros, Vice Mayor	Aye
Dan Allers, Council Member	Aye
Jim Atterholt, Council Member	Aye
Bill Veach, Council Member	Aye

ADOPTED this 1<sup>st</sup> day of November, 2021 by the Town Council of the Town of Fort Myers Beach, Florida

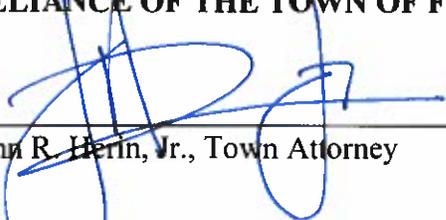
**TOWN OF FORT MYERS BEACH**

  
Raymond P. Murphy, Mayor

**ATTEST:**

  
Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**

  
John R. Herin, Jr., Town Attorney

This Ordinance was filed in the Office of the Town Clerk on this 4 day of Nov., 2021